

NEW YORK, SUNDAY, DECEMBER 13, 1914.—Copyright, 1914, by the Sun Printing and Publishing Association.

CROPSEY AND HIS GUN
LOAD OF "HANDPICKED"James Church Cropsey.
District Attorney of Kings County.

Review of Facts Leading Up to District Attorney's Sensational Charge Involving Brooklyn Supreme Court Justices and Edward M. Grout—His Fight Before Bar Association

"We have with us to-night a man whom you all know, James Church Cropsey, District Attorney of Kings County," said the toastmaster.

These perfunctory words introduced a speech by Mr. Cropsey at the dinner of the Fulton Street Board of Trade in Brooklyn on October 22 last. And Mr. Cropsey arose to speak, but instead of saying pleasantly and harmlessly that the Fulton street elevated railroad should be removed, a subject of which he knows little except possibly academically and about which everybody else present knew a great deal, Mr. Cropsey spoke of matters about which he did know.

He spoke of the work of the county prosecutor, and referred specifically to one case. He said that he would try the defendant in that case as soon as he could get the case before some justice of the Supreme Court who was not "handpicked," the inference being that the defendant had obtained unwarranted favors from certain justices.

And as the result of that speech the Brooklyn Bar Association is holding in its lap a red hot brick, of which it cannot let go, and a group of Brooklyn justices of the Supreme Court are eying warily a gun which is before them. They can shoot that gun at Cropsey if they want to, but there is more than a rapier in the minds of a number of lawyers that their hesitation to pick it up and aim and fire is due to a doubt whether the gun is loaded with shot and a firm belief that it packs an awful kick in its butt.

And all the time Cropsey has been insisting that the public be allowed in to see the Bar Association's antics while holding the hot brick, and requesting that somebody fire the gun. The public of course is barred, and some of those who have followed the developments of Cropsey's speech believe that the case will be wound up with a polite assertion by the Bar Association that the brick was not hot, and that the gun was not a gun; it was a bean shooter.

The case referred to is that of Edward M. Grout, lawyer, former City Comptroller and once president of the Union Bank of Brooklyn, which seems to have made trouble for every one who touched it. David A. Sullivan, the Sing Sing prisoner, whose pastimes while serving a prison term caused the dismissal of Warden McCormick of Sing Sing and who has just been indicted on three more counts in connection with his manipulation of the Union Bank's money, preceded Mr. Grout as head of the wrecked institution.

Grout was indicted before Mr. Cropsey's incumbency began, but he was only indicted for a misdemeanor, and Mr. Cropsey caused his indictment for a felony, charging that he committed perjury in making a report to the State Banking Department. It is alleged that Grout swore falsely to a statement of the bank's assets and liabilities, increasing the former and decreasing the latter.

It was while District Attorney Clarke, Mr. Cropsey's predecessor, was in office that the Union Bank rehabilitated after its suspension during the panic of 1907, failed again while Mr. Grout was president. Mr. Clarke at the time was in Europe, Robert H. Elder was Mr. Clarke's first assistant and was in charge of the office. It is Elder who caused Grout's indictment for a misdemeanor.

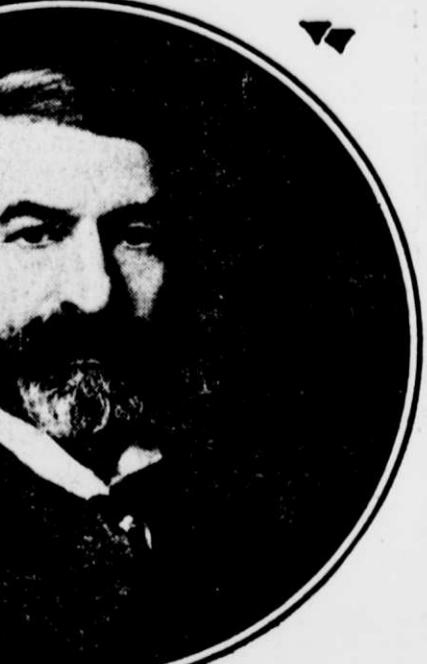
In December, 1912, Mr. Cropsey had Grout indicted for a felony, and since then the case has been in court repeatedly on various motions. Mr. Grout's prominence and the interest of the public, particularly in connection with all the affairs of the Union Bank, led some one to ask Mr. Cropsey when he would put Mr. Grout on trial, and it was a reference to this in the speech before the Fulton Street Board of Trade that has caused all the commotion.

It is what Mr. Cropsey said: "Somebody asked me when we were going to try another bank president who had been indicted for a felony, and I said, 'I will try him if I can get the case before some justice of the Supreme Court who is not handpicked, and one who is not a friend of the defendant.'"

Justice Benedict's attack, and it outlined the Grout case, dwelling upon the points which indicated that Grout was getting preferred treatment. In the first place, Cropsey said that Justice Benedict's "language and conduct was unjudicial," and the "rebuttle was totally irrelevant and impertinent." He complained that Justice Benedict had made grossly "unjust and unfair criticisms," and had made "statements which were inaccurate and misleading." Then he made these specific charges against three justices:

That former Justice Marean had emasculated the first indictment brought against Grout, and that Marean was "biased and prejudiced, as he had shown by his talk and action."

That Justice Scudder had granted a motion to transfer the Grout case from the County Court to the Supreme Court, although the motion was opposed by the



Edward M. Grout.

that we are entitled to that from experience in that very case.

"A man charged with the serious crime of perjury has been released without bail and allowed to go on parole. We have other evidence of at least a not impartial judge who, without regard to laws and decisions, wiped out all effect of an indictment. You must understand that the People of the State have no right of appeal. If you can get a judge to show favoritism, he can do it, and the people have no redress unless they get up in arms as they ought at this outrageous conduct against the wishes of all the people."

"We have another similar instance of a judge, knowing the character of the man before him, granting a motion which has not been granted in three years out of 3,700 cases. No one was accorded the same favor."

"I made an application to the Governor requesting a judge who did not know the defendant and who would be upright and fair, and hand out justice to both sides. If we cannot get that judge we will take the judge we can get, but the case will be tried in my term."

There were reporters present while Mr. Cropsey was speaking, and the next day knowledge of the speech was not restricted to the members of the Fulton Street Board of Trade.

But what did Mr. Cropsey do when he saw in cold, hard type what he had said? He didn't say that the reporters were mistaken, which public men have often found to be the easiest way to recall, injudicious remarks; he didn't back out by saying that he had been confused, and had spoken hastily, and didn't mean what he had appeared to mean.

Not Cropsey. He said, "Yes, I said it, and I might say a good deal more, giving details. It's a crying shame that Grout should always get preferred treatment from the courts. Now mind, I don't say that any judge accepted money, or a promise of political aid, or any other concrete help from Grout or anybody, but I do say that they were swayed by friendship for the prisoner, and treated him too well. And I can't try his case properly with a friend of his on the bench."

That's what Cropsey said, and a good deal more. And then Robert H. Elder, who had had a deal to do with the Grout case when Assistant District Attorney, injected himself into the situation. Elder is Progressive county leader in Brooklyn, although he used to be a Democrat. No one in Brooklyn who knows either Cropsey or Elder will tell you that they are warm friends, and it is easy to find people who believe that they dislike each other intensely.

The last big case in which they opposed each other was when "Curly Joe" Cassidy, erstwhile political boss of Queens, was convicted of selling a nomination for Justice of the Supreme Court to William Willett, Jr. Elder defended Cassidy and his alleged go-between, Louis Walter, and both Cropsey and Elder made the court room sizzle with a score of heated arguments.

At a meeting of the Bar Association Elder referred to Mr. Cropsey's speech and questioned the good taste of it. He made a motion that a committee of five be appointed to investigate and recommend appropriate action. And it was then, by a vote of 72 to 42, that the Bar Association picked up the brick, which immediately began to simmer.

At this very time Grout's case was before Justice Benedict on a motion by Stephen C. Baldwin, Grout's lawyer, to have a Supreme Court Justice outside of Brooklyn try the case. Justice Benedict denied the motion on November 14, sending the case back to the County Court, and delivered a stinging rebuke to Cropsey for the "handpicked judges' speech."

Cropsey, who has never been known to dodge a fight, tried to answer the Justice back, but he had no chance of sidetracking Justice Benedict's prepared speech of rebuke. So Cropsey went back to his office and prepared a bill of particulars for the public. He handed this to the newspapers the next day.

It was in brief, a defence against

District Attorney, and there were no legal grounds for granting it; that at the same time Justice Scudder had praised Grout as "a citizen without a blemish"; that Justice Scudder had also allowed Grout's counsel to inspect the Grand Jury minutes, although Mr. Cropsey had submitted papers showing that under the authorities there was no legal right for such inspection.

That Justice Benedict's utterance was "absolutely gratuitous, offensive, unjudicial and unmanly."

The next move was the Bar Association's, and in accordance with Mr. Elder's motion, Charles J. McDermott, president of the association, appointed this committee to inquire into the good taste of Mr. Cropsey's "handpicked judges' speech; Chairman, the former Chief Justice of the Court of Appeals, Edgar M. Cullen; Col. James D. Bell, former Assistant Corporation Counsel; Meier Steinbrink, Col. Albert Lamb and Sanford H. Steele, president of the Hamilton Club.

The committee invited Mr. Cropsey to appear before it on November 31 and explain the good taste of his utterances.

Mr. Cropsey appeared, but there was little discussion of good taste. Mr. Cropsey said it was a question of justice, and that he was prepared to prove that he had sound basis for all his remarks.

Incidentally, it was at this meeting that Robert H. Elder slid out of the situation. The committee expected him to act as prosecutor and Cropsey to appear in the role of defendant, but Mr. Elder explained that really he had nothing to do with the situation except that as a good citizen he thought that Mr. Cropsey's remarks should be taken up.

After this it was the justices who appeared in the role of defendants, while Cropsey took a part that pleases him well; that of prosecutor. He offered documentary evidence to show that marked signs of favor had been extended to Grout, and he mentioned, in addition to the three justices already named, Justice Blackmar and Judge

The hearing was private, although Cropsey wanted to have the public admitted. But even his own stenographer was barred.

Once the case jumped beyond the matter of judging Mr. Cropsey's taste in public speeches and became a matter of judging the acts of judges, the Bar Association's committee would have been glad to let go, but they couldn't very well. So last week Mr. Cropsey sent to the committee his documentary evidence. This consists of minutes of various hearings held before the justices with whom he is at war; of citations showing that their decisions in these hearings, if not illegal, were at least unusual.

There was a huge mass of these papers, and it is expected that the committee members will go over them individually, and then meet and decide what they are all about.

Another ticklish problem for the committee was to decide whether or not it would be proper to invite the charges to answer Mr. Cropsey's charges. Before deciding this the committee announced that they would be pleased to hear what "any one," meaning the justices, had to say about the charges. Not a single justice appeared on behalf of the justices. It was said that no one cared to dignify Mr. Cropsey's charges by answering them, but on behalf of Mr. Cropsey it was said that the justices hesitated because they didn't know whether the shot or kick of the butt of the gun would hurt worse.

And Cropsey, the fighting Sunday school teacher and Y. M. C. A. leader, goes on his way grimly and seriously, getting a melancholy pleasure out of it all.

Mr. Grout complains that the present situation is hurting his chances before a jury, and denies that he handpicked any of the judges. He denied that any of the judges are bosom friends of his, and that he has had more than passing acquaintance with them, except one.

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